

Message Text

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ACTION AF-08

INFO OCT-01 EUR-12 IO-13 ISO-00 CIAE-00 DODE-00 PM-04 H-01
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 DHA-02 ACDA-07 OMB-01 TRSE-00 /089 W
-----050651Z 024780 /14

R 041605Z MAR 77
FM AMEMBASSY CAPE TOWN
TO SECSTATE WASHDC 5795
INFO AMEMBASSY LONDON
AMEMBASSY PRETORIA
AMEMBASSY DAR ES SALAAM
AMEMBASSY GABORONE
AMEMBASSY LUSAKA
AMEMBASSY MAPUTO
AMCONSUL DURBAN
AMCONSUL JOHANNESBURG
USMISSION USUN NEW YORK

LIMITED OFFICIAL USE CAPE TOWN 0328

E.O. 11652: N/A
TAGS: PINT, PFOR, WA
SUBJ: NAMIBIA; BILL OF RIGHTS TO BE UNENFORCEABLE

REF: CAPE TOWN 0164, 0165; PRETORIA 640, 893 AND 1029

1. PRESS MARCH 4 REPORTED THAT CONSTITUTIONAL COMMITTEE
OF TURNHALLE HAD REACHED CONSENSUS ON THORNY ISSUE OF
ENFORCEMENT OF BILL OF RIGHTS. INSTEAD OF LEGALLY
ENFORCEABLE BILL OF RIGHTS, COMPROMISE REACHED IS TO
SET UP INDEPENDENT CONSTITUTIONAL COURT EMPOWERED TO
"ADVISE" LEGISLATIVE BODIES AT THREE TIERS OF GOVERNMENT
WHETHER OR NOT A CONFLICT MIGHT EXIST BETWEEN BILL OF
RIGHTS AND PROPOSED LEGISLATION. SUCH "ADVICE" WOULD
BE GIVEN ONLY IF SPECIFICALLY REQUESTED AND WOULD
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HAVE NO RPT NO BINDING EFFECT.

2. IN TERMS OF THE LATEST COMPROMISE--WHICH THEORETICALLY
COULD STILL BE ALTERED BY THE FULL TURNHALLE CONFERENCE--
THE INDEPENDENT CONSTITUTIONAL COURT WILL CONSIST OF
THREE JUDGES OR EX-JUDGES OR LEGALLY TRAINED PEOPLE WITH
AT LEAST 20 YEARS OF EXPERIENCE WHO WILL BE APPOINTED

BY THE COUNCIL OF MINISTERS.

3. COMMITTEE CHAIRMAN, DIRK MUDGE, TOLD TV INTERVIEWER THAT COMMITTEE WOULD HOPEFULLY FINISH ITS CONSIDERATIONS BY MARCH 18. HIS REMARKS INDICATED A STRONG DESIRE TO COMPLETE ALL TURNAHLLLE ACTION QUICKLY SO THAT PROPOSALS COULD GO TO SOUTH AFRICAN PARLIAMENT.

4. COMMENT: PULLING LEGAL TEETH OF BILL OF RIGHTS MEANS INTERIM GOVERNMENT WILL HAVE NO WAY TO COMPEL ENDING APARTHEID. COMPROMISE IS BITTER PILL FOR BLACK AND BOWN DELEGATES, ACCORDING TO KLOPPERS, BUT WAS SEEN AS NECESSARY TO MAINTAIN FORWARD MOTION. IT ALSO GREATLY REDUCES WHAT LITTLE MERIT THERE IS IN THE TURNHALLE AGREEMENTS. BOWDLER

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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
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Disposition History: n/a
Disposition Reason:
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